

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DAVID PAUL LARSON

Plaintiff,

v.

THE ARENA GROUP HOLDINGS,
INC

Defendant(s).

Case No. 1:23-cv-2063

COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff, David Paul Larson alleges as follows:

JURISDICTION AND VENUE

1. This is a civil action seeking damages and injunctive relief for copyright infringement under the Copyright Act of the United States, 17 U.S.C. § 101, *et seq.*
2. This court has personal jurisdiction over Defendant because Defendant's actions alleged herein occurred in the state of New York, were directed towards a resident of the state of New York, Defendant caused injury to Plaintiff within the state of New York, and Defendant has a physical presence in the state of New York.
3. Venue in this judicial district is proper under 28 U.S.C. § 1331 and/or 28 U.S.C. § 1333 in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred, Defendant resides in or

can be found in this district, Defendant conducts regular and substantial business in this district and/or is a corporate defendant whose contacts with this district are sufficient to subject it the personal jurisdiction of this Court.

PARTIES

4. Plaintiff David Paul Larson (“Larson” or “Defendant”) is an individual and photographer residing and working in the state of New York. Defendant The Arena Group Holdings Inc. (“Arena” or “Defendant”) is a Delaware Corporation whose principal place of business is in New York at 200 Vesey Street, 24th Floor, New York, New York 10281. Arena has one or more offices and employees in New York, has conducted regular and substantial business throughout New York including this judicial district, and has transacted business with many individuals or businesses residing throughout New York including this judicial district.

FACTUAL ALLEGATIONS

5. Plaintiff David Paul Larson is a fashion photographer who has worked with high end publications and clients such as *Vogue*, Calvin Klein, Dom Perignon, kate spade, *Elle Magazine*, and Marc Jacobs.

6. Larson is the sole creator and exclusive rights holder to five photographs of model Carey Murphy (the “Murphy Images”).

7. Attached as Exhibit A are true and correct copies of the Murphy Images.

8. Larson has registered the Murphy Images with the United States Copyright

Office under registration number VAu 1-258-661, with an effective registration date of May 18, 2015.

9. According to Defendant Arena's corporate website, Arena focuses on building "powerful brands" with a focus on "growth for our partners; targeted solutions for marketers and cutting edge experiences for consumers". *See <https://thearenagroup.net/about-us/>.*

10. Defendant Arena owns and operates 175 websites, with over 120 million digital users and over 250 million page views. *Id.*

11. Defendant Arena is and was at all relevant times the owner and operator of the Sports Illustrated Swimsuit brand and its website <https://swimsuit.si.com> ("Swimsuit Website").

12. Defendant Arena is and was at all relevant times the owner and operator of the Sports Illustrated brand and its website <https://www.si.com/>. ("SI Website").

13. According to Defendant's corporate website, Sports Illustrated's digital footprint includes 67 million unique monthly users, 100 million monthly video views, and 12 million social media followers with paid advertising rates of \$37,717 to \$103,109, which apply across their print ad digital platforms. *See https://thearenagroup.net/wp-content/uploads/2022/12/23_SI_MediaKit_1220.pdf.*

14. The Swimsuit Website and the SI Website will collectively be referred to as the "Defendant's Websites".

15. On information and belief, Defendant's Websites generate content that promotes its products, services, and to attract user traffic to Defendant's Websites and generate business for the company.

16. At all relevant times, the Defendant's Websites were readily accessible to the general public throughout New York, the United States, and the world.

17. On or about March 3, 2022, Larson discovered that Arena had used the Murphy Images in a post titled "Friday's Hot Clicks: Carey Murphy; Colts Fans Get Married on Field Before Game" ("Infringing Post") that was published to both the Swimsuit Website and the SI Website.

18. A true and correct copy of the Infringing Post featuring Larson's Murphy Images on the Swimsuit Website are attached as Exhibit B.

19. A true and correct copy of the Infringing Post featuring Larson's Murphy Images on the SI Website are attached as Exhibit C.

20. Larson, through counsel, reached out to Arena in an attempt to resolve this matter without court intervention, but the parties were unable to come to an agreement.

21. Larson has never at any point given Arena a license or other permission to display, distribute or otherwise use the Murphy Images in the Infringing Post on Defendant's Websites or on any other website or platform.

22. Arena (including its employees, agents, contractors or others over whom it

has responsibility and control) copied and uploaded the Murphy Images to the Defendant's Websites without Larson's consent or authorization.

CAUSE OF ACTION
COPYRIGHT INFRINGEMENT
17 .S.C. § 101 *et seq.*

23. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

24. Plaintiff did not consent to, authorize, permit, or allow in any manner the said use of the unique and original Murphy Images.

25. Plaintiff is informed and believes and thereon alleges that the Defendant willfully infringed upon the copyrighted Photographs in violation of Title 17 of the U.S. Code, in that it used, published, communicated, posted, publicized, and otherwise held out to the public for commercial benefit, the original and unique Murphy Images without Plaintiff's consent or authority, by using them in the Infringing Post on Defendant's Websites.

26. As a result of Defendant(s)' violations of Title 17 of the U.S. Code, Plaintiff is entitled to any actual damages pursuant to 17 U.S.C. §504(b), or statutory damages in an amount up to \$150,000 pursuant to 17 U.S.C. § 504(c).

27. As a result of the Defendant's violations of Title 17 of the U.S. Code, the court in its discretion may allow the recovery of full costs as well as reasonable attorney's fees and costs pursuant to 17 U.S.C § 505 from Defendant.

28. Plaintiff is also entitled to injunctive relief to prevent or restrain infringement of his copyright pursuant to 17 U.S.C. § 502.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- a) For a finding that Defendant infringed Plaintiff's copyright interest in the Photographs by copying and displaying it for commercial purposes without a license or consent;
- b) For an award of actual damages and disgorgement of all of Defendant(s)' profits attributable to the infringement as provided by 17 U.S.C. § 504 in an amount to be proven or, in the alternative, at Plaintiff's election, an award for statutory damages against Defendant(s) in an amount up to \$150,000 for each infringement pursuant to 17 U.S.C. § 504(c), whichever is larger;
- c) For an order pursuant to 17 U.S.C. § 502(a) enjoining Defendant from any infringing use of any of Plaintiff's copyrighted works;
- d) For costs of litigation and reasonable attorney's fees against Defendant pursuant to 17 U.S.C. § 505;
- e) For pre- and post-judgment interests as permitted by law; and
- f) For any other relief the Court deems just and proper.

DATED: March 10, 23

Respectfully submitted,

s/ Taryn Rose Murray
Taryn Rose Murray, Esq.
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Attorney for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff David Paul Larson, hereby demands a trial by jury in the above matter.

DATED: March 10, 23

Respectfully submitted,

s/ Taryn Rose Murray
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